

This section of the **FEDERAL REGISTER** contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the fourth quarter, October through December, of 1990. The agenda is issued to provide the public with information about NRC's rulemaking activities. The Regulatory Agenda is a quarterly compilation of all rules on which the NRC has recently completed action or has proposed, or is considering action and of all petitions for rulemaking that the NRC has received that are pending dispositions.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG-0936) Vol. 9, No. 4, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's public Document Room, 2120 L Street NW. (Lower Level), Washington, DC

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 275-2080 or (202) 275-2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Ruler Review Section, Regulatory Publications Branch, Division of Freedom and Information and Publications Services, Office of Administration U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7758, toll-free number (800) 368-5642.

Dated at Bethesda, Maryland, this 4th day of February 1991.

For the Nuclear Regulatory Commission.

Donnie M. Gaimaley,
Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 91-3333 Filed 2-11-91; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 243

[Docket No. 47383; Notice 91-2]

RIN 2105-AB78

Aviation Security: Passenger Manifest Information; Correction

AGENCY: Office of the Secretary, DOT.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: This document corrects the docket number appearing in the January 31, 1991, Federal Register issue at 56 FR 3810, in the advance notice of proposed rulemaking concerning Aviation Security: Passenger Manifest Information. The references to "Docket 47381; Notice 91-2" should read in the heading and in the Addresses section "Docket 47383; Notice 91-2".

DATES: The first sentence of the Date line still reads: Comments must be submitted on or before February 19, 1991.

FOR FURTHER INFORMATION CONTACT: Megan Marshall (202) 366-4877.

Dated: February 4, 1991.

Neil R. Eisner,
Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 91-3003 Filed 2-11-91; 8:45 am]

BILLING CODE 4910-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 162

RIN 1515-AA67

Proposed Customs Regulations Amendments Relating to the Liability of Common Carriers for Failure To Exercise the Highest Degree of Care and Diligence To Prevent Unmanifested Controlled Substances

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: By statute, a common carrier is liable for penalties and forfeiture of its conveyance if controlled substances are carried on board. The common carrier may avoid liability if it exercises the highest degree of care and diligence, the statutory standard, to prevent the carriage of controlled substances. There is no requirement under the law that any specific steps be taken in order to avoid the statutory liability. Congress, however, directed that regulations be published setting forth criteria to assist common carriers in meeting the statutory standards of highest degree of care and diligence. This document Proposes to amend the Customs Regulations by setting forth criteria that common carriers, if they wish to avoid liability when controlled substances are found aboard a conveyance, may use in determining whether they are taking all possible steps to comply with the statutory standard. The document also sets forth a new provision concerning the seizure of common carriers. A notice was published previously concerning these matters. After consideration of comments received in response to the notice, a modified proposal is now being published for comments.

DATES: Comments must be received on or before March 14, 1991.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, DC 20229.

These actions may have decreased the probability of reduced fuel capacity and in-flight siphoning, but fuel exhaustion incidents are still being reported. The FAA has determined that specific fueling procedures and limitations and cautionary information regarding the possibility of fuel siphoning may be necessary for Cessna 210, T210, and 7210 series airplanes that were manufactured with cantilever wing integral fuel tanks.

An advance notice of proposed rulemaking (ANPRM) was published in the Federal Register on December 20, 1990 (55 FR 52179), which provided an opportunity for the general public to participate in the decision whether to initiate rulemaking. The FAA has received requests to extend the comment period on this subject. This notice allows additional time for interested persons to provide information that describes what they consider the best action (if any) to be taken to correct this problem. In this regard, the FAA is especially interested in comments and viewpoints on the following:

1. Do the fuel gauges register one level that appeared incorrect upon visual inspection? i.e.,

a. Do the fuel gauges indicate full with less than the certificated fuel capacity onboard?

b. Do the fuel gauges register fuel onboard when the fuel tanks are empty?

c. Do fuel gauges register empty or at an unusable quantity when several gallons of fuel are still available?

2. Do you have to use special procedures to completely fill the fuel tanks?

3. Is the airplane normally refueled on level ground?

4. Have you seen evidence of fuel siphoning from the fuel tank caps or tank vents that occurred while the airplane was in flight. If so, did you believe it to be a significant amount?

5. Have fueling stops been more frequent than usual?

6. Would it be effective to:

a. Limit the fuel that would be available under certain conditions through operational, AFM restrictions, mechanical means, or similar means or methods?

b. Modify existing or install different fuel tank caps, filler ports, and vents?

c. Require an Airplane Flight Manual Supplement with special fuel system operating procedures and limitations?

d. Take any other actions or implement other airplane modifications to solve the problem?

7. Have you obtained any information relating to this topic through safety seminars, public information classes or

any other general information programs? If so, please share the views and ideas you received and what you think to be the most important.

8. Are there suggestions other than those addressed above for reducing the possibility of fuel exhaustion accidents or incidents on these airplanes?

held in Kansas City, Missouri on January 24, 1991.

Barry D. Clements,
Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 91-2292 Filed 1-30-91; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 243

[Docket No. 47383; Notice 91-2]

RIN2105 AB 78

Aviation Security: Passenger Manifest Information

January 11, 1991.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: public Law 101-604, enacted November 16, 1990, mandates that the Secretary of Transportation require all U.S. airlines to comply with a Passenger Manifest Collection Regulation for international flights. The Department of Transportation intends to meet this statutory requirement and is therefore soliciting comments and suggestions from the public pertaining to cost-effective methods for facilitating the collection of the required information.

DATES: Comments must be submitted on or before February 19, 1991. Comments received on or before the deadline will have the best chance of being considered for inclusion in the Notice of Proposed Rulemaking (NPRM); however, the Department of Transportation will continue to accept late comments and consider them to the extent possible. Given the close proximity of the statutory deadline, the NPRM will be released shortly after the ANPRM comment deadline.

ADDRESSES Comments on this advance notice of proposed rulemaking should be mailed, in triplicate, to: Docket Clerk, U.S. Department of Transportation, room 4107, Docket No. 47383, 4007th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Megan Marshall, Office of the Assistant Secretary for Policy and International Affairs, Department of Transportation,

400 7th Street, SW., Washington, DC 20590. Telephone (202) 3664877.

SUPPLEMENTARY INFORMATION: During the 101st Congress, Section 410, subsection (a) of the Federal Aviation Act of 1958 (49 U.S.C. app. 1380, Public Law 101-604, signed November 16, 1990) was amended to mandate that "not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State+) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification." The statute specifically prescribes that the passenger manifest contain the following information: "The full name of each passenger, the passport number of each passenger, if required for travel, and the name and telephone number of a contact for each passenger." In addition, in subsection (b), the statute states that "the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement," and subsection (c) requires the Secretary of Transportation to consider "a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a)."

Besides the Congressional mandate, the President's Commission on Aviation Security and Terrorism, in its final report to the President, also recommended that airlines be required to collect additional passenger identification and emergency contact information on all flights entering and leaving the United States (Report on the president's Commission on Aviation Security and Terrorism, p. 102). The Department of State regards the timely provision of a passenger manifest that, at a minimum contains the elements specified in public Law 101-604 and in the Commission's report as essential to permit it to fulfill its responsibility under the statute to provide timely notification to victims' families.

Public Law 101-604 does not define the term "aviation disaster." The Department proposes to define the term

as "an occurrence associated with a U.S. air carrier's international operations that takes place between the time any person has checked in for boarding of a flight and the time all such persons have disembarked, and during the time which any person suffers death or serious injury, is taken hostage, or the aircraft receives substantial damage either as the result of accident or of an unlawful act directed at the aircraft or its passengers." The Department invites comment on this definition.

In past industry/government discussions, the U.S. carriers have expressed concern about the practicality of complying with the requirements such as those now contained in section 203 of public Law 101-604 in terms of reservations procedures and information systems. The airlines stated that they would be forced to provide additional counter space in airports that are already facing serious facility constraints. Although the carriers would purchase and install additional computer terminals, the airlines contend that passengers would still be faced with increased processing time at the ticket counters. The airlines have also identified some difficulties with relying on current computer reservations systems (CRS) to facilitate the collection and verification of data.

According to the airlines, the technical problems that arise within a single computer system are likely to be exacerbated when information has to be transferred between systems of varying degrees of sophistication and capacity. The internal reservations systems of airlines that do not own a CRS of the type marketed to travel agents are usually less sophisticated. While standard formats exist for the transfer of some information, full passenger data are not routinely transmitted from the system in which the reservation is made to other airlines in a passenger's itinerary. Therefore, formats would need to be agreed upon and implementing software would need to be developed to facilitate the transfer of additional information.

Another problem that has been identified by the airlines is ensuring that the necessary data are collected at the time the reservation is made. While airlines can control reservations that are made directly with their own personnel, the carriers cannot exercise the same degree of control over reservations made through travel agents. Travel agents book 70-80% of scheduled service in the United States.

On December 3, 1990, staff of the Office of the Secretary of Transportation met with a representative of the Air Transport Association (ATA), at the

representative's request. Although Department of Transportation policy discourages oral contacts with individual parties during the course of a rulemaking, if such contacts do occur, Department of Transportation Order 2100.2 (Policies of Public Contact in Rulemaking) requires that a report be submitted to the docket and, where appropriate, that the contact be discussed in the preamble to the notice. In this case, the industry representative expressed the airlines' concerns about the costs of implementing such a rule as well as the feasibility of meeting the 120 day deadline and recommended that the Department of Transportation address these concerns. Department of Transportation staff replied that it would consider those issues raised by the ATA representative. A full summary of the discussion has been placed in the Docket.

By this advance notice we request comments on various issues arising from the implementation of public Law 101-604, signed November 16, 1990. The Department of Transportation will meet the statutory requirements and has issued this ANPRM as a method for acquiring information necessary to the production of an NPRM and accompanying Regulatory Evaluation.

The Department of Transportation has identified two possible approaches to meeting the statutory requirements. We would appreciate comments on the feasibility and the desirability of each of these approaches, along with any others.

Possible Approaches

(1) Require airlines to collect and to maintain in computer reservations systems [e.g., and not any other data collection system] the required data at the time each passenger books a reservation. Airlines would be required to ensure the information is collected by all ticket and travel agents.

(2) Require each of the airlines to obtain the approval of the Department of Transportation for its own individually developed data collection system (e.g., computer reservation system, manual system, passport reading machine-based system, information storage unit).

Note: Such a system must possess the capability of collecting all of the passenger manifest information required by the statute.

Specifically, interested parties are asked to respond to any or all of the following questions in addition to issues discussed previously.

Data Collection and Protection

(1) Should the U.S. air carriers be made legally responsible for the

collection of passenger manifest information or should collection be limited to requiring air carriers to use their "best-efforts" to obtain the necessary information? Assuming the air carriers are made legally responsible, should a passenger who does not wish to provide the information be barred from traveling? Could such a passenger be issued a ticket after signing a waiver form that releases the air carrier from accountability?

(2) How should the data collection process be applied to non-direct, air-taxi, and commuter airlines vis-a-vis the Regulatory Flexibility Act? In the case of charter flights, should the responsibility for collecting the manifest information be attributed to the charter operators or the airlines themselves?

(3) Should the airlines be required to collect identification information for all passengers or just for U.S. citizens? Commenters are specifically invited to address problems that a passenger manifest rule could pose if foreign laws forbid the collection of personal information.

In addition to foreign nationals, how could the following types of passengers fit into data collection procedures (standbys, walk-ups, no-shows, industry non-revenueurs, lap infants, and rerouters)?

(4) Should a legal distinction be made in reporting requirements and implementation for flight segments to/from the United States vs. those between two foreign points?

(5) What are the current methods available for collecting passenger information data? In the opinion of those entities affected, what are the most cost-effective of these data collection methods? What elements (e.g., equipment and procedures) would these collection system require? What would be the costs of implementing these systems?

(6) Are there technical problems that can be foreseen in current computer systems' capabilities and compatibility? What are they? How can they be addressed?

(7) Many different people will have access to passenger manifest information including, of course, employees of airlines and travel agencies who will be collecting it. This raises questions of privacy protection. How should this problem of confidentiality be addressed? Should the privacy of reservations made abroad be treated differently than those made in the United States?

Facilitation

(8) What effect would the information collection process have on passenger processing time and flight schedules? What steps could be taken to alleviate potential problems in this area? [e.g., Is it technically feasible and cost effective to indicate in the passenger check-in process, CRS departure control mode, an asterisk or another symbol) that the additional passenger manifest data had been previously entered into the passenger name record?)

Domestic/Foreign

(9) How can we ensure foreign airlines and travel agents pass on data they have previously collected for passengers who will be traveling on U.S. carriers?

(10) Should foreign airlines serving U.S. markets comply with additional information collection requirements? How will this information differ from the customs data such airlines already collect? Should the Department of Transportation mandate how the foreign carriers conduct the collection?

(11) If foreign carriers are not subject to the rule, would there be a competitive impact on U.S. carriers? If so, to what extent? Will the traveling public view airlines who are required to collect passenger manifest information as less secure or more secure? Is it credible to believe that many passengers would select an airline on the basis of the need to provide additional information?

(12) In addition to foreign travel, should the regulation also apply to domestic passenger flights (including travel between the U.S. mainland and U.S. territories and possessions)?

(13) What special problems might arise for flights where no passport is required for travel, such as to Canada, Mexico, and the Caribbean?

Benefits, Lost;

The anticipated benefits of the proposed collection of information are difficult to quantify: the additional information would primarily aid the Department of State in its efforts to notify the next of kin of passengers involved in aviation disasters. The benefits here can be measured in terms of time saved and mistakes avoided once an airline disaster occurs.

Comments are invited on this issue.

Regulatory Flexibility Considerations

Congress enacted the Regulatory Flexibility Act of 1980 (RFA) to ensure that small entities are not unfairly and disproportionately burdened by the government. Small entities are defined as small nonprofit organizations and independently owned and operated

small businesses. **RFA requires rules** that may have a significant effect on a great number of small entities to be reviewed by the agencies. We invite comments to address whether, and to what extent, small entities would be affected by rules of the kind discussed in this notice, and to make suggestions regarding ways to minimize the burden on small entities.

Issued in Washington, DC, January 22, 1991.

Samuel K. Skinner,
Secretary of Transportation.

[FR Doc. 91-2217 Filed 1-30-91; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF JUSTICE**Federal Bureau of Investigation****28 CFR Part 16**

[Order No. 1470-91]

Fee for Production of Identification Record

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises 26 CFR 16.33, permitting the Federal Bureau of Investigation (FBI) Identification Division to increase the fee from \$14.00 to \$17.00 for the production of identification records to the subjects of those records.

DATES: Comments must be received on or before March 4, 1991.

ADDRESSES: Send comments to Federal Bureau of Investigation Identification Division, Room 10861, Washington, DC 20537-9700.

FOR FURTHER INFORMATION CONTACT: Melvin D. Mercer, Jr., Chief of the Correspondence and Special Services Section, Identification Division, FBI, Washington, DC 20537-44700, telephone number (202) 324-5454.

SUPPLEMENTARY INFORMATION: Departmental Order 55673 (38 FR 32806, November 28, 1973) directed that the FBI publish rules for the dissemination of arrest and conviction records upon request. This order resulted from a determination that section 534, title 28 of the United States Code does not prohibit the subjects of arrest and conviction records for accessing those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, a set of rolled-inked fingerprint impressions, and the appropriate

processing fee. Based on current cost analysis, the cost for production of an FBI identification record has increased from \$14.00 to \$17.00.

This is not a major-rule within the meaning of Executive Order No. 12291, and it will not have a substantial impact on a significant number-of small businesses.

List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure, Courts, Freedom of Information, Privacy, and Sunshine Act.

PART 16—[AMENDED]

By virtue of the authority vested in me as Attorney General, including 28 U.S.C. 509,510, and 5 U.S.C. 301, part 16, subpart C of title 28 of the CFR is amended as follows:

1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C.301, 552552a552b(g), 553; 18U.S.C. 4203(a)(1); 28U.S.C. 509,510, 534; 31 U.S.C. 3717, 9701.

2. Section 16.33 is proposed to be revised to read as follows:

§ 16.33 Fee for production of identification record.

Each written request for production of an identification record must be accompanied by a fee of \$17.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10 of this part. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigence.

Dated: January 22, 1991.

Dick Thornburgh,

Attorney General.

[FR Doc. 91-2146 Filed 1-30-91; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 90**

[PR Docket No. 90-481; DA W-521]

Construction, Licensing, and Operation of Private Land Mobile Radio Stations

AGENCY: Federal Communications Commission.

United States Department of Transportation
Office of the Secretary
[Docket 47383; Notice 91-2]
RIN 2105 AB 78
CFR CITATION: 14 CFR 243

Aviation Security: Passenger **Manifest** Information

AGENCY: Department of Transportation, Office of the Secretary

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Public Law 101-604, enacted November 16, 1990, mandates that the Secretary of Transportation require all U.S. airlines to comply with a Passenger Manifest Collection Regulation for international flights. The Department of Transportation intends to meet this statutory requirement and is therefore soliciting comments and suggestions from the public pertaining to **cost-** effective methods for facilitating the collection of the required information.

DATES: Comments must be submitted on or before February 19, 1991. Comments received on or before the deadline will have the best chance of being considered for inclusion in the Notice of Proposed Rulemaking (NPRM); however, the Department of Transportation will continue to accept late comments and consider them to the extent possible. Given the close proximity of the statutory deadline, the NPRM will be released shortly after the ANPRM comment deadline.

ADDRESSES: Comments on this advance notice of proposed rulemaking should be mailed, in triplicate, to: Docket Clerk, U.S. Department of Transportation, Room 4107, Docket **No. 47383**, 400 7th Street, SW, Washington, DC 20590.

JAN 11 1991

FOR FURTHER INFORMATION CONTACT: **Megan** Marshall, Office of the Assistant Secretary for Policy and International Affairs, Department of Transportation, 400 7th Street, SW, Washington, DC 20590. Telephone (202) 366-4877.

SUPPLEMENTARY INFORMATION:

During the **101st** Congress, Section 410, subsection (a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1380, P.L. 101-604, signed November 16, 1990) was amended to mandate that "not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State - (1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification." The statute specifically prescribes that the passenger manifest contain the following information: "**the** full name of each passenger, the passport number of each passenger, if required for travel, and the name and telephone number of a contact for each passenger." In addition, in subsection (b), the statute states that "the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest

information as a condition for passenger boarding of any flight subject to such requirement," and subsection (c) requires the Secretary of Transportation to consider "**a** requirement for foreign air carriers comparable to that imposed pursuant to **the** amendment made by subsection **(a)**."

Besides the Congressional mandate, the President's Commission on Aviation Security **and Terrorism, in** its final report to the President, also recommended that airlines be required to collect additional passenger identification and emergency contact information on all flights entering and leaving the United States (Report on the President's Commission on Aviation Security and Terrorism, p. 102). The Department of State regards the timely provision of a passenger manifest that, at a minimum, **contains the** elements specified in **P.L.** 101-604 and in the Commission's report as essential to permit it to fulfill its responsibility under the statute to provide timely notification to victims' families.

Public Law 101-604 does not define the term "aviation disaster." The Department proposes to define the term as "an occurrence associated with a **U.S. air** carrier's international operations that takes place between the time any person has checked in for boarding of a flight and the time all such persons have disembarked, and during the time which any person suffers death or serious injury, is taken hostage, or the aircraft receives substantial damage either as the result of accident or of an unlawful act directed at the aircraft or its passengers." The

Department invites comment on this definition.

In past industry/government discussions, the U.S. carriers have expressed concern about the practicality of complying with the requirements such as those now contained section 203 of P.L. **101-604** in terms of reservations procedures and information systems. The airlines stated that they would be forced to provide additional counter space in airports that are already facing serious facility constraints. Although the carriers would purchase and install additional computer terminals, the airlines contend that passengers would still be faced with increased processing times at the ticket counters. The airlines have also identified some difficulties with relying on current computer reservations systems (CRS) to facilitate the collection and verification of data.

According to the airlines, the technical problems that arise within a single computer system are likely to be exacerbated when information has to be transferred between systems of varying degrees of sophistication and capacity. The internal reservations systems of airlines that do not own a CRS of the type marketed to travel agents are usually less sophisticated. While standard formats exist for the transfer of some information, full passenger data are not routinely transmitted from the system in which the reservation is made to other airlines in a passenger's itinerary. Therefore, formats would need to be agreed upon and implementing

software would need to be developed to facilitate the transfer of additional information.

Another problem that **has** been identified by the airlines is ensuring that the necessary data are collected at the time the reservation is made. While airlines can control reservations that are made directly with their own personnel, the carriers cannot exercise the same degree of control over reservations made through travel agents. Travel agents book **70-80%** of scheduled service in the United States.

On December 3, 1990, staff of the Office of the Secretary of Transportation met with a representative of the Air Transport Association (**ATA**), at the representative's request. Although Department of Transportation policy discourages oral contacts with individual parties during the course of a rulemaking, if such contacts do occur, Department of Transportation Order 2100.2 (Policies of Public Contact in Rulemaking) requires **that a report** be submitted to the docket and, where appropriate, that the contact be discussed in the preamble to a notice. In this case, the industry representative expressed the airlines' concerns about the costs of implementing such a rule as well as the feasibility of meeting the 120 day deadline and recommended that the Department of Transportation address these concerns. Department of Transportation staff replied that it would consider those issues raised by the **ATA** representative. A full summary of the discussion has been placed in the Docket.

By this advance notice we **request** comments on various **issues** arising from the implementation of P.L. 101-604, signed November 16, 1990. The Department of Transportation will meet the **statutory requirements and** has issued **this ANPRM as a** method for acquiring information **necessary** to the **production** of an **NPRM and** accompanying Regulatory Evaluation.

The Department of Transportation **has identified** two possible approaches to meeting the statutory requirements. We would appreciate comments on the feasibility and the desirability of each of these approaches, along with any others.

POSSIBLE APPROACHES

1) Require airlines to collect and to maintain in computer reservations systems (e.g., and not any other data collection system) the **required data at the time each passenger books a reservation**'. Airlines would be required to ensure the information is collected by all ticket and travel agents.

2) Require each of the airlines to **obtain the approval of the** Department of Transportation for its own individually developed data collection system (e.g., computer reservation system, manual system, passport reading machine-based system, information storage unit). Note: Such a system must possess the capability of collecting all of the passenger manifest information required by the statute.

Specifically, interested parties are asked to respond to any or all of the following questions in addition to issues discussed previously.

DATA COLLECTION AND PROTECTION

1) Should the U.S. air carriers be made legally responsible for the collection of passenger manifest information or should collection be limited to requiring air carriers to use their "best-efforts" to obtain the necessary information? Assuming the air carriers are made legally responsible, should a passenger who does not wish to **provide the information be** barred from traveling? Could such a passenger be issued a ticket after signing a waiver form that releases the air carrier from accountability?

2) How should the data collection process be applied to **non-**direct, air-taxi, and commuter airlines **vis-a-vis** the Regulatory Flexibility Act? In the case of charter flights, should the responsibility for collecting the manifest information be attributed to the charter operators or the airlines themselves?

3) Should the airlines be required to collect identification information for all passengers or just for U.S. citizens? Commenters are specifically invited to address problems that a passenger manifest rule could pose if foreign laws forbid the collection of personal information.

In addition to foreign nationals, how could the following types of passengers fit into data collection procedures (standbys, **walk-ups**, no-shows, industry non-revenueurs, lap infants, and rerouters)?

4) Should a legal distinction be made in reporting requirements and implementation for flight segments to/from the United States vs. those between two foreign **points**?

5) What are the current methods available for collecting passenger information data? In the opinion of those entities affected, what are the most cost-effective of these data collection methods? What elements (e.g., equipment and procedures) would these collection systems require? **What would be** the costs of implementing these systems?

6) Are there technical problems that **can** be foreseen in current computer systems' **capabilities and compatibility**? **What are they**? How can they be addressed?

7) Many different **people** will have access to passenger manifest information including, of course, employees of airlines and **travel** agencies who will be collecting it. This raises questions of privacy protection. **How** should this problem of confidentiality be addressed? Should the privacy of reservations made abroad be treated differently than those made in the United States?

FACILITATION

8) What effect would the information collection process have on passenger processing time and flight schedules? What steps could be taken to alleviate potential problems in this area? (e.g., Is it technically feasible and cost effective to indicate in the passenger check-in process, CRS departure control mode, (by an asterisk or another symbol) that the additional passenger manifest data had been previously entered into the passenger name record?)

DOMESTIC/FOREIGN

9) How can we ensure foreign airlines and travel agents pass on data they have previously collected for passengers who will be traveling on U.S. carriers?

10) Should foreign airlines serving U.S. markets comply with additional information collection requirements? How will this information differ from the customs data such airlines already collect? Should the Department of Transportation mandate how the foreign carriers conduct the collection?

11) If foreign carriers are not subject to the rule, would there be a competitive impact on U.S. carriers? If so, to what extent? Will the traveling public view airlines who are required to collect passenger manifest information as less secure or more secure? Is it credible to believe that many passengers would

select an airline on the basis of the need to provide additional information?

12) In addition to foreign travel, should the regulation also apply to domestic passenger flights (including travel between the U.S. mainland and U.S. territories and possessions)?

13) What special problems might arise for flights where no passport is required for travel, such as to Canada, Mexico, and the Caribbean?

BENEFITS/COSTS

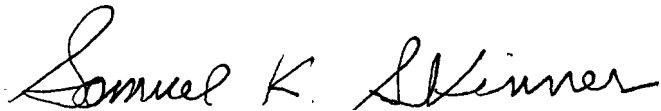
The anticipated benefits of the proposed collection of information are difficult to quantify; the additional information would primarily aid the Department of State in its efforts to notify the next of kin of passengers involved in aviation disasters. The benefits here can be measured in terms of time **saved and** mistakes avoided once an airline disaster occurs. Comments are invited on this issue.

REGULATORY FLEXIBILITY CONSIDERATIONS

Congress enacted the Regulatory Flexibility Act of 1980 (RFA) to ensure that **small entities** are not unfairly and disproportionately burdened by the government. Small entities are defined **as small** nonprofit organizations and independently owned and operated small

businesses. RFA requires rules that may have a significant effect on a great number of small entities to be reviewed by the agencies. We invite comments to address whether, and to what extent, small entities would be affected by rules of the kind discussed in this notice, and to make suggestions regarding ways to minimize the burden on small entities.

Issued in Washington, DC, January 22 , 1991.

A handwritten signature in cursive script that reads "Samuel K. Skinner".

Samuel K. Skinner

Secretary of Transportation

CERTIFIED TO BE A TRUE
COPY OF THE ORIGINAL

Irmajean V. Treadwell
Alternate Certifying Officer